

## **Assembly Bill No. 394**

### **CHAPTER 566**

An act to add Article 5.5 (commencing with Section 234) to Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, relating to discrimination.

[Approved by Governor October 12, 2007. Filed with  
Secretary of State October 12, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 394, Levine. Safe schools: discrimination and harassment.

Existing law prohibits discrimination on the basis of specified protected characteristics, including, but not limited to, actual and perceived gender identification and sexual orientation, in any program or activity conducted by an educational institution, as specified.

This bill would require the State Department of Education to monitor adherence to the antidiscrimination and antiharassment requirements as part of its regular monitoring and review of local educational agencies and to assess whether local educational agencies have done certain things, including, among others, adopted a policy that prohibits discrimination and harassment and adopted a process for receiving and investigating complaints of discrimination and harassment. The department would be required to display information on curricula and other resources that specifically address bias-related discrimination and harassment on specified Internet Web sites. The department would also be required to develop, and post on appropriate department Internet Web sites, a model handout describing certain rights and obligations relating to antidiscrimination and antiharassment and the policies addressing bias-related discrimination and harassment in schools.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) All pupils in public primary, elementary, middle, junior high, and senior high schools have the inalienable right to attend school at school campuses that are safe, secure, and peaceful.

(b) Pursuant to subdivision (b) of Section 201 of the Education Code, public schools in California have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) The California Student Safety and Violence Prevention Act of 2000 reaffirmed the right of all pupils to a safe school environment by prohibiting a person from being subjected to discrimination on the basis of sex, ethnic

group identification, race, national origin, religion, color, mental or physical disability, or an actual or perceived characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in a program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

(d) Hate-motivated incidents jeopardize the safety and well-being of all pupils because they target not only the individual victim, but everyone who shares the identity that motivated the particular incident. Unfortunately, there have been increasing reports of hate-motivated incidents and crimes in California schools.

(e) (1) Numerous studies point to an ongoing problem of discrimination, harassment, and violence in schools that has severe consequences for pupils. For example, the 2004–06 California Healthy Kids Survey results found that between 27 to 30 percent of California middle and high school pupils reported experiencing bias-related harassment at school related to their race, ethnicity, gender, religion, sexual orientation, or disability.

(2) Many school districts are not effectively addressing discrimination and harassment on campus. Less than half of grade 9 pupils express feeling safe at school, while 46 percent of pupils said their schools were not safe for lesbian, gay, bisexual, and transgender (LGBT) pupils.

(3) Many teachers have not received training to prevent or respond to illegal discrimination and harassment. A majority of school districts do not require training on how to address discrimination and harassment based on sexual orientation for their elementary, middle, or high school teachers.

(4) Many pupils and parents are unaware of nondiscrimination policies, with 23 percent of pupils and 29 percent of parents not being informed of the policies.

(f) In a public hearing conducted on October 3, 2002, by the California Senate Select Committee on School Safety, pupils, teachers, parents, researchers, and advocates from all over the state testified about incidents of ongoing discrimination and harassment and an inadequate response from school authorities.

(g) Bias-related discrimination and harassment have negative consequences for pupil health, well-being, and academic success. For example, the Safe Place to Learn report issued by the California Safe Schools Coalition and the 4-H Center for Youth Development at the Davis campus of the University of California found that pupils who are harassed based on actual or perceived sexual orientation are at least three times more likely to carry a weapon to school, to seriously consider suicide, to make a plan for attempting suicide, or to miss at least one day of school per 30 schooldays because they do not feel safe. In addition, a survey of San Francisco Asian American youth found that 36 percent cited racial tension as the primary cause for fights on campus.

(h) A number of school districts have paid hundreds of thousands of dollars in damages to settle lawsuits by pupils claiming their schools failed to protect them from harassment, intimidation, and violence, including a

June 2005 jury award of three hundred thousand dollars (\$300,000) in San Diego to two former high school pupils for the harassment they received at school based on their actual or perceived sexual orientation and a January 2007 settlement of forty-five thousand dollars (\$45,000) in a Contra Costa County lawsuit alleging that school officials failed to protect a pupil from repeated attacks motivated by racial and ethnic prejudice.

SEC. 2. Article 5.5 (commencing with Section 234) is added to Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, to read:

Article 5.5. Safe Place to Learn Act

234. (a) This article shall be known and may be cited as the Safe Place to Learn Act.

(b) It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, and violence. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

234.1. The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination and harassment based on the characteristics set forth in Section 422.55 of the Penal Code and Section 220.

(b) Adopted a process for receiving and investigating complaints of discrimination and harassment based on the characteristics set forth in Section 422.55 of the Penal Code and Section 220.

(c) Publicized antidiscrimination and antiharassment policies, including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.

(d) Posted antidiscrimination and antiharassment policies in all schools and offices, including staff lounges and pupil government meeting rooms.

(e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.

(f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination or harassment remains confidential, as appropriate.

(g) Identified a responsible local educational agency officer for ensuring district or office compliance with the requirements of Chapter 5.3

(commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200).

234.2. The department shall display information on curricula and other resources that specifically address bias-related discrimination and harassment based on the characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination and harassment is posted.

234.3. The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination and harassment in schools. This model handout shall be posted on appropriate department Internet Web sites.